LIFE-INSURANCE LEGISLATION.

BY PAUL MORTON, PRESIDENT OF THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES, AND D. P. KINGSLEY, VICE-PRESIDENT OF THE NEW YORK LIFE INSURANCE COMPANY.

I.—PROTECT THE POLICY-HOLDERS.

THE life-insurance companies, at the present moment, are like great passenger-steamers that have encountered heavy weather, and whose passengers have become apprehensive, notwithstanding the fact that it has been clearly shown that the vessels are absolutely seaworthy. The best counsel, therefore, that I can give these passengers is to advise them to stick by the ship.

There has been too much racing, but that has been stopped. Charts may have been disregarded, but every ship is now in its right course.

It is true that laws must be passed providing for more thorough inspection. Compasses must be looked to. Anchors and cables must be tested. Charts must be carefully followed. But the comfort and convenience, and, above all, the safety of the passengers must not be threatened by well-meaning but injudicious legislation.

The policy-holders of a life-insurance company, however, are not in all respects like passengers, for they are the owners of the ships on which they sail. Just here, reformers and critics and legislators and the public at large are in most danger of going astray. The policy-holders of a life-insurance company are not merely customers; they have a proprietary interest (whether the company has a capital, or is organized on the mutual plan). The policy-holders constitute the company; contribute the money with which the business is conducted; pay their own losses; reap the profits of good management, and suffer the penalties of mis-

management. It does not follow from this that the business must be conducted by the policy-holders themselves; but it does follow that those who are charged with that responsibility shall protect the interests of the owners.

SECURITY IS ESSENTIAL, BUT INVESTMENTS SHOULD YIELD AN INCOME.

It goes without saying that no life-insurance company should be permitted to embark in speculative ventures, or to place the money of its policy-holders in anything but gilt-edged securities; but, in avoiding danger in one direction, care must be taken that we are not injured in some other direction. This whole question is of far greater importance than the superficial observer imagines. While it is essential that the assets of an insurance company shall not be imperilled, it is equally important that investments shall yield an adequate return. Few persons realize the fact that the actuaries, in computing premium charges, credit policy-holders in advance with the interest which their premiums are expected to earn. Hence, if the companies should be limited hereafter to investments that yield less than this credit, there will be, to that extent, a deficiency.

Or, if a company that has many millions of dollars invested in safe securities should be forced by law to throw them on the market, the resulting impairment might be greater than the loss from a mere shrinkage in interest; for a part of the principal might have to be sacrificed. Moreover, it might be difficult to find investments as safe or as valuable to replace them.

The assets of the life-insurance companies of the United States form an enormous aggregate; and, if investments are restricted within too narrow a limit, the authorized class of securities will command a fancy price (as in the case of Government bonds), and policy-holders will have to content themselves with investments yielding an inadequate return.

And if a retroactive law, forcing the life-insurance companies to undo the work of years, should be passed, would not a dangerous and far-reaching precedent be established? Would not such a law pave the way for retroactive legislation regarding the investments of railroads, banks and other corporations?

It is one thing to decide upon future action, and another to reach back into the past and make even desirable readjustments;

for in the latter case there is danger of doing more harm than the good aimed at can possibly accomplish.

If any truth has been demonstrated by the investigation of the Legislative Committee, it is that the prominent insurance companies have great financial strength. And that strength is due to the good character of the securities in which their funds have been invested.

THE VALUE OF SURPLUS.

It has been said that the large surplus accumulations of many of the companies have resulted in careless and extravagant administration, and that, therefore, the law should stipulate that no company shall be permitted hereafter to hold more than a very narrow margin of surplus. But permanent security is the consideration of first importance, and no greater calamity could fall upon policy-holders than the passage of a law which might imperil the solvency of any one of these great institutions.

It is the chief glory of a bank or trust company that it has abundant surplus strength; and the market value of its shares depends largely upon the amount of the surplus held. And, although the policy-holder in an insurance company is in a sense a depositor, his interests are also those of a shareholder, or proprietor.

AGENTS' COMMISSIONS.

Strict economy is now the watchword of the insurance companies; and it is universally agreed that the compensation of agents must be reduced, but coupled with that resolve is the determination that more care than ever before shall be exercised in the selection of agents. And, if men of standing and responsibility and integrity are to represent the companies hereafter, they must receive fair remuneration.

THE INSURANCE COMPANIES HAVE BENEFITED THE STATE.

New York is the financial centre of the Western Hemisphere, and may be classed with London, Paris and Berlin. The industry of the New York companies, the funds gathered together by them from all over the country, have had much to do with this development. Therefore, in remedying the evils that have crept

into the business, the New York Legislature will do well to view the question broadly; for it is easier to pull down than to build up, and the insurance companies of New York are surrounded by citizens of other States who would glory in their discomfiture, and would be eager to turn to advantage any blunders committed by them, no matter how praiseworthy their motives might be. In the mad rush for preeminence, excesses have been committed; but, in ridding ourselves of the evil, let us be careful not to destroy the good.

There are multitudes of companies of other States that have found the competition of the companies of New York State hard to contend against. If that competition should be removed, they might be tempted in turn to abandon their former conservatism. The New York companies, moreover, have armies of trained men in the field. These men are working, not only within the borders of New York State, but in every other State. They are abundantly able to make a living if their companies are able to meet the public demand; but those who are interested in the welfare of the New York companies must take heed lest these trained men become disheartened and desert to the companies of other States. A twofold injury would result: not only would business be lost, but the extensive plants which have been built up by the great New York companies would be idle; an expensive burden would then be saddled upon policy-holders, and dividends would dwindle.

DEFERRED DIVIDENDS.

Deferred-dividend policies have been criticised, and valid objections have been advanced, but these objections do not relate to the plan itself. They relate simply to the manner in which that branch of the business has been conducted.

Dividends have been disappointing, but this disappointment has not been confined to the dividends on deferred-dividend policies; the dividends on annual-dividend policies have been equally unsatisfactory. The companies and the agents have been blamed for this state of affairs; the companies, because early estimates were too high; the agents, because they have been accused of making exaggerated predictions. But the decline in dividends during recent years has been due primarily to two altogether different causes,—namely, (1) shrinkage in the income on invest-

ments; and (2) the large surrender values and expensive benefits granted to policy-holders under modern contracts of insurance. These surrender values and benefits, which were not granted formerly, have used up part of the surplus which might otherwise have been distributed in dividends. Otherwise, dividends to-day would correspond more closely with the predictions made when the policies were issued. Hereafter no predictions must be made as to the amount of future dividends; and policy-holders must understand that expensive privileges granted during the period of accumulation will necessarily reduce the amount distributable in dividends at the end of the period. If all this is made plain, a plan of insurance may be maintained which has one characteristic impossible under any other plan—a characteristic which seems to have been overlooked by critics and reformers. I refer to the circumstance that, under the deferred-dividend plan, the burden is lightened for every policy-holder who exhibits exceptional vitality, and, therefore, becomes a paying member of the organization—the one who contributes most towards the payment of death claims. The whole fabric of life-insurance is based on the theory that those who live long must contribute most of the money needed to pay the insurance on the lives of those who die first. In the event of early death, the return to the beneficiary, as compared with the amount paid in premiums, is enormous in every case; and this is as it should be. But the manner in which *dividends* shall be paid is discretionary. It is true that the company has no right to forfeit the dividend of one policy-holder and pay it to another; nor is such the practice under the deferred-dividend plan, although that has been charged. The deferred-dividend plan simply offers a contract under which the applicant voluntarily agrees that in the event of premature death he will relinquish all claim to a participation in profits, if, *in consideration of that waiver,* it is understood that, if his life is prolonged, his dividend shall be increased by the profits relinquished by those who die prematurely. Surely, the man who pays premiums for twenty years, or longer, is entitled to as much relief as his fellow members can furnish, provided no one is victimized thereby.

But, whatever may be the course of wisdom regarding the future, it is to be hoped that nothing may be done to disturb the minds of the hundreds of thousands of people throughout the

United States whose existing policies are on the deferred-dividend plan. The manner in which dividends are distributed is of minor importance; and every one of these policy-holders (if his insurance is in a solvent company) has a good asset, which has been growing in value from the day the investment was made.

To all such I commend the following advice of Senator Armstrong, Chairman of the Legislative Committee:

"I am asked for a brief message to policy-holders. . . . Do not allow your policies to lapse. . . . Those who suffer their policies to lapse will lose the benefit of what has been done already, as well as what we hope to accomplish. No such sacrifice ought to be made by policy-holders."

In conclusion, let me say that it is my firm belief that, from this time on, it will be the honest endeavor of the officers and directors of all the reputable companies in New York to conduct their affairs in such a manner as to merit the approbation of every citizen of the State. I know of no opposition to wise legislation. The courage and sincerity and thoroughness with which the Legislative Committee has conducted its investigation deserve the highest commendation, and all that I, or any other conscientious life-insurance manager, can ask is that the laws to be enacted shall be reasonable and beneficial, and that policy-holders shall be protected and not injured. And the point which demands most emphasis in this connection is that, if the life-insurance companies are injured, even inadvertently, the policy-holders are the ones who will be damaged thereby.

PAUL MORTON.

II.—SAFEGUARD THE COMPANIES.

LIFE-INSURANCE as practised in the United States, and especially by the companies of New York State, has had, within fifteen years, a most astonishing growth. At least three companies chartered by the State of New York have become international in their character, and one of the three holds at the present time a concession to do business, and is actually doing business, in every important country of Europe, in South America, in South Africa, in Australia, in China and in India.

The conduct of this business, or rather the condition of it,

was referred to a Committee created by the New York State Legislature, and the sitting Legislature of the State has before it the findings and recommendations of that Committee, based on an inquiry which extended from the early part of September to the close of December, 1905.

Much of the legislation proposed has received the cordial support of all life-insurance men: for example, the provisions for publicity; the prohibition of political contributions; the regulation of lobbying; the prohibition of rebates; making the policy the entire contract between the company and the insured, etc. But with some of the other proposals all life-insurance men take issue, and over a few there is difference of opinion.

One section of the proposed legislation has met the united opposition, in one form or another, of all companies, whether chartered by New York or chartered elsewhere. This section undertakes to limit the amount of money that may be paid for securing new insurance in any year. The opposition unites in saying that the theory of this section is unworkable, that its provisions are impracticable and destructive, that it will substantially exterminate the existing agency organization of any company operating hereafter in New York. There is no resisting the conclusion that the Committee must have decided, before it prepared this section, that the business of the New York companies, and, broadly speaking, the life-insurance business of the State, ought, for some good and sufficient public reason, to be curtailed, if not substantially brought to a standstill.

In another section, the Committee goes further; and, notwithstanding the provision already referred to, which would limit the cost of the yearly output of the companies, provision is made for an arbitrary limit on the amount of that output in any year. To the impartial observer, this suggests even more strongly a determination in the Committee's mind to stop the growth of the business in New York. It was obviously decided that if any company, notwithstanding what for the sake of argument we will call sound limitations on the cost of new business, succeeded in doing business, then that company should only be permitted to do, with relation to what it has previously done, a restricted amount. This, assuredly, is strange doctrine to be found in the statutes of any State. That the law should limit success, that it should say to a man or a corporation, doing an honest business

honorably, "Thus far and no farther," is a new doctrine, and one that will not be generally welcomed.

In another section, the Committee undertakes to recite the exact phraseology of the life-insurance contract hereafter to be used in New York; and, in still another, specific prohibition is laid on companies doing business in the State and on the citizens of the State, which forbids the issue of contracts providing for a distribution of dividends on any plan except what is known as the "annual-dividend" plan. This is pure paternalism and sumptuary legislation.

In still another paragraph, the Committee lays down a programme with regard to the future control of the two great mutual companies of New York city, which cannot be called anything less than revolutionary, and which even the sharpest critics of the conduct of the companies must hesitate to endorse. In a word, provision is made for the abrupt termination of the tenure of office, not of a portion, but of all, of the trustees of these two companies on the 15th of November next. An election law is provided, and the control of the companies is obviously to be forced, if not into, then very near, the arena of politics. No one can object to an arrangement by which the policy-holders may vote, and vote easily; but any arrangement which would shift suddenly the control of nearly nine hundred million dollars of accumulated savings from one set of trustees to another can be justified only because of the clear existence of the gravest peril to the assets if that were not done.

It is not easy, even to one's own satisfaction, to analyze the condition of mind which, after four months of most strenuous labor, made the Committee feel that its duty required it to offer such suggestions as these. To me, it seems that the Committee, listening day by day to a recital of mistakes and faults and errors of judgment, and, in some cases, of actual dishonesty, became so impressed or overwhelmed with the mass of material which was cast upon it, that it was unable to see out, unable to get and keep a broad grasp on what life-insurance really is and what it really needs.

The three great New York companies alone have in force throughout the world insurance amounting to, approximately, five thousand million dollars. Admitting that life-insurance is good for the individual and the State—and it is difficult to find

a man in these days who will refuse to make that admission—it is not easy even to approximate the value of what these three companies have done, not merely in New York State and in the United States, but throughout the world. Existing insurance is so valuable, viewed from an economic standpoint, that any suggestion which looks towards its regulation should always be very carefully considered, and any suggestion which involves the possibility of its serious injury ought not to be even entertained. These companies represent about the earliest expression, on a large scale, of a definite out-working of the theory of cooperation. They have been making the experiment boldly and ably, and, upon the whole, honestly. This I say notwithstanding all the evidence brought out before the Legislative Committee, and notwithstanding the need of drastic correctives.

There is a very sure and simple way to arrive at the conclusion that the business of life-insurance, as practised by our great companies, has been, on the whole, honestly managed. Each of the three companies most under criticism of late, has been submitted, not only to this legislative inquisition, but, in addition, to all sorts and varieties of examinations by the State, by groups of States, and by chartered and certified accountants of known reputation. Out of this whirlwind of inquiry, the companies have emerged abundantly solvent, and abundantly able to carry out every contract on their books. This condition is a fact that any one can verify. It shows conclusively that the presentation made before the Armstrong Committee of errors and faults and wrong-doing proven, did not reach to the body of any one of the companies. Having passed through this fiery ordeal, and having shown itself to be thoroughly sound, it is not strange that life-insurance now stands somewhat appalled at the suggestion that the laws of the State should be so amended that the business will be seriously crippled, its working organization destroyed, and an asset of great value to the policy-holders arbitrarily dissipated.

Some of the proposals of the Armstrong Committee, in the interests of the State, should be radically modified. The expense of getting business may be a proper subject for regulation, but that style of legislation is always dangerous, and any regulations adopted should, above all things, aim at securing publicity and insuring the operation of competition in the interests of the pub-

lic. Having established publicity, and a sensible regulation of first year's cost, any order which says that a reputable business, honestly conducted, shall limit itself in any one year in what it shall do, is abhorrent to every instinct of the American citizen. Therefore, any law arbitrarily limiting the annual output of these companies is worse than a mistake.

Again, the citizen should be allowed to take any style of insurance he sees fit, provided the contract is an honest contract; therefore, no one should be denied the right to buy a policy with "dividends," so called, payable at the end of each year. Neither should he be denied the right to make a contract with dividends payable at the end of five, ten, fifteen or twenty years. Each style of contract has its advantages, and to deny a man the right to buy what he wants is paternalism indeed.

To subject the present enormous savings in the two great mutual companies to the grave risk and danger of a sudden and violent shift of the entire Board of Trustees, is a proposition so radical and so revolutionary that it is rather surprising it should be so seriously entertained in any legislative body in the United States.

The Legislative Committee, from a moral standpoint, has already done an enormous amount of good, not only to life-insurance, but to all business. It is quite possible, however, by forcing through the measures discussed here, to do an injury to life-insurance which will more than offset all the good accomplished. The injury, as I view it, would be temporary only, although it might be serious. The good sense of the people of the State of New York will, after a little, reassert itself; and any unfair treatment given to a business which has had a useful existence of over two hundred years, and has, upon the whole, been conducted brilliantly and successfully by the companies of New York State, will certainly and speedily be remedied.

D. P. KINGSLEY.